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Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

RICHARD SHERMAN and DEBRA
SHERMAN,

Plaintiffs,

vs.

NATIONWIDE MUTUAL
INSURANCE COMPANY, ALLIED
PROPERTY AND CASUALTY
INSURANCE COMPANY, and DOES
I & II,

Defendants.

Case No.:

**PETITION AND NOTICE OF
REMOVAL PURSUANT TO 28
U.S.C. §§ 1441, 1446**

TO: THE HONORABLE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MONTANA, MISSOULA DIVISION

COMES NOW, Nationwide Mutual Insurance Company and Allied Property
and Casualty Insurance Company, Defendants, and hereby give notice to the
above-entitled Court for removal of this cause from the Montana Eleventh Judicial
District, Flathead County, to the above-entitled United States District Court,

Missoula Division, pursuant to 28 U.S.C. §§ 1441 and 1446, and for their grounds for removal allege:

1. That the action is a civil action seeking declaratory relief that was commenced July 17, 2012 by filing a Complaint in the Montana Eleventh Judicial District Court, Flathead County; that at all times involved, Plaintiff has been and now is a resident and citizen of Montana; that at all times herein, the Defendants have been and now are corporations organized and existing under and by virtue of the laws of the State of Ohio (Nationwide) and Iowa (Allied), and their principal places of business are not in Montana.

2. From the contents of the Complaint it reasonably appears that the matter in controversy, exclusive of interest and costs, exceeds the sum of Seventy-five Thousand Dollars (\$75,000.00) and is a suit respectively between a citizen of the State of Montana, as Plaintiff, and corporations of the States of Ohio and Iowa, in that Defendants were at the time of filing said action, and ever since such filing, have been and now are, corporations organized, created and existing under the laws of states other than Montana and have their principal places of business in state(s) other than Montana. The above-entitled Court has jurisdiction of this case under, and by virtue of, the provisions of 28 U.S.C. § 1332. The amount in controversy, exclusive of costs and fees, exceeds the sum of \$75,000.00.

3. That on or about August 8, 2012, by Notice and Acknowledgement, Plaintiff caused a Summons and Complaint to be served on the Montana Insurance Commissioner, and attached hereto and marked as Exhibit A is a copy of the Summons and Complaint so served..

4. That this Notice is filed within 30 days after service on the Insurance Commissioner issued by the state court.

5. That Defendants will, upon filing of this Notice of Removal, forthwith give written notice thereof to the above-named Plaintiffs and file with the Montana Eleventh Judicial District Court Flathead County, the Notice of its filing and request for transfer pursuant to M.R.Civ.P. 77(e), by which acts the above-entitled cause is removed from such State District Court to the above-captioned United States District Court, attached as Exhibit B.

Dated this 7th day of September, 2012.

/s/ Scott G. Gratton
Scott G. Gratton
BROWN LAW FIRM, P.C.
Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that, on September 7, 2012, a copy of **Petition and Notice Of Removal Pursuant To 28 U.S.C. §§ 1441, 1446** was served on the following person by the following means:

<u>1-2</u>	CM/ECF	_____	Fax
_____	Hand Delivery	_____	E-Mail
<u>2</u>	Mail	_____	Overnight Delivery

1. Clerk of U.S. District Court
2. Sharon M. Morrison
MORRISON & FRAMPTON, PLLP
Frank Lloyd Wright Building
341 Central Avenue
Whitefish, MT 59937
Attorney for Plaintiffs

By: /s/ Scott G. Gratton
Scott G. Gratton
BROWN LAW FIRM, P.C.
Attorney for Defendants